

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT  
CHANDIGARH**

**C.R. No. 104 of 2005**

**Date of decision :09.05.2013**

Mange Ram

....Petitioner

V/s

Dina Nath Sharma

....Respondent

**BEFORE : HON'BLE MR. JUSTICE RAJAN GUPTA**

Present: Mr. R.K. Gupta, Advocate for the petitioner.

Mr. Vinod Bhardwaj, Advocate for the respondent.

**RAJAN GUPTA J.**

Present revision petition is directed against the order passed by the Rent Controller whereby application filed by the petitioner for leading additional evidence has been dismissed.

Learned counsel for the petitioner has assailed the order. He has submitted that landlord was residing at a distant place. For this reason, he could not depose before the Rent Controller at the time of affirmative evidence. The court below has, thus, erred in rejecting the application for leading additional evidence. He has relied upon judgment of this court reported as *Charan Singh vs. Ajit Singh 1999(Suppl.) Civil Court Cases 458*.

Learned counsel for the respondent has opposed the plea. He submits that petitioner has merely delayed the matter. Petitioner was granted ample opportunity to lead evidence in affirmative. He is merely trying to fill up lacuna in the case. Thus, trial court has rightly rejected his prayer for leading additional evidence.

I have heard learned counsel for the parties.

An eviction petition was instituted by respondent-landlord in the year 2001. After issues were framed, 7 effective opportunities were granted to him for leading evidence but petitioner failed to examine any witness. Petitioner closed his evidence on 05.05.2003. He, however, tendered a copy of the rent note which was taken on record by the trial court as mark 'A'. Thereafter, evidence of the respondent was recorded. At the time case came up for rebuttal evidence, petitioner made an effort to lead affirmative evidence. He examined one witness Ram Phal, an official from Food & Supply department. Instant application for leading additional evidence was moved thereafter. Trial court rejected the plea observing that petitioner was granted sufficient opportunity to lead his evidence in affirmative but he failed to do so. I find no infirmity with the order passed by the court below. The judgment relied upon by counsel for the petitioner in *Charan Singh* case (supra) is not applicable to facts of this case. In any case, petitioner has not been able to show that evidence could not produced earlier despite due diligence. On the other hand, he was granted 7 effective opportunities but he failed to adduce evidence. Eviction petition has been pending before the Rent Controller for more than a decade. There is no ground to interfere in revisional jurisdiction of this court. Dismissed.

May 09, 2013  
Ajay

(RAJAN GUPTA)  
JUDGE